

JUDICIAL BRANCH

0250 Judicial Branch

Background. The California Constitution vests California's judicial authority in a three part court system composed of the Supreme Court, the Courts of Appeal, and the Trial Courts (also referred to as Superior Courts). The budget for the Judicial Branch is divided between two main segments, the State Judiciary and the Trial Courts. The State Judiciary encompasses the activities of the following entities:

- **Supreme Court**—The highest court in the state judicial system reviews legal questions of statewide importance and appeals of all death penalty judgments.
- **Courts of Appeal**—The six district Courts of Appeal hear appeals in all areas of civil and criminal law.
- **Habeas Corpus Resource Center**—This center provides legal representation for defendants in death penalty habeas corpus proceedings in the Supreme Court and in the federal courts.
- **Judicial Council**—The Judicial Council of California administers the state's judicial system. The Administrative Office of the Courts is the administrative arm of the Judicial Council and oversees the Judicial Branch Facility Program.

The largest component of the budget for the Judicial Branch is the local assistance for California's 58 Trial Courts (one in each county). Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle) shifted primary fiscal responsibility for these courts from the counties to the state. Under this law the state now funds the Trial Courts above a fixed county contribution.

Additional legislation and a voter initiative have further reshaped the Trial Courts since 1998. Proposition 220, passed by the voters in 1998 unified the county's superior and municipal courts into a one-tier trial court system. Chapter 1010, Statutes of 2000 (SB 2140, Burton) gave the courts the status of independent employers, making Trial Court staff employees of the court. Finally, Chapter 1082, Statutes of 2002 (SB 1732, Escutia) set up a framework to transfer the courthouses from the county to the state. The Judicial Branch is currently in the process of making these transfers and current law allows facilities to be transferred until the end of the 2006-07 fiscal year.

Governor's Budget. The Governor's budget proposes \$3.7 billion to support the Judicial Branch, which is 3.6 percent greater than estimated expenditures in the current year. General Fund support for the Judiciary is \$2.3 billion, which is about 12 percent greater than estimated expenditures in the current year. The increase in the budget year is primarily due to the year-over-year growth in the State Appropriations Limit and the full-year costs of 50 new judgeships approved in the 2006-07 Budget Act.

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	\$ Change	% Change
Type of Expenditure				
Supreme Court	\$43,332	\$44,924	\$1,592	3.7
Courts of Appeal	190,781	203,610	12,829	6.7
Judicial Council	121,823	127,529	5,706	4.7
Judicial Branch Facility Program	34,727	36,387	1,660	4.8
State Trial Court Funding	3,091,911	3,265,197	173,286	5.6
Habeas Corpus Resource Center	13,344	14,263	919	6.9
Capital Outlay	87,498	19,527	-67,971	-77.7
Total	\$3,583,416	\$3,711,437	\$128,021	3.6
Funding Source				
General Fund	\$2,007,914	\$2,251,581	\$243,667	12.1
Special Funds	1,489,097	1,394,804	-94,293	-6.3
<i>Budget Total</i>	<i>3,497,011</i>	<i>3,646,385</i>	<i>149,374</i>	<i>4.3</i>
Federal Trust Fund	6,371	6,391	20	0.3
Judicial Branch Workers' Comp Fund	2	2	0	0.0
Public Building Construction Fund	21,178	0	-	-
Reimbursements	58,855	58,659	-196	-0.3
Total	\$3,583,417	\$3,711,437	\$128,020	3.6

Infrastructure Bond. The Governor has proposed a continuation of phase one of his Strategic Growth Plan, which includes \$2 billion in general obligation bonds for new and expanded court facilities. The Governor indicates that the \$2 billion being proposed will handle the most critical infrastructure needs and allow the courts to leverage private funding through public-private partnerships. Potential partnerships include exchanging outdated court facilities on valuable urban land for new court facilities on less prominently located property, co-locating revenue-generating commercial space in new court buildings, and contracting with private firms to construct and operate court buildings in exchange for lease payments.

Highlights

Entire Judicial Branch Fully Funded at State Appropriations Limit Rate. The Governor proposes to fully fund the entire Judicial Branch based on the year-over-year change in the State Appropriations Limit (5.36 percent) at an incremental cost of \$146.8 million General Fund. This includes \$16.7 million in additional monies for the State Judiciary and \$130.1 million for the Trial Courts. Current law requires that the Trial Courts receive a growth factor based on the State Appropriations Limit, but this is not a requirement in state law for the State Judiciary.

New Judgeships Proposed. The Governor proposes \$27.8 million in the budget year and \$74.3 million in 2008-09 to add 100 new judgeships over a two-year period beginning in April 2008. This proposal also supports the conversion of up to 161 judicial officers to judgeships, as the positions become vacant, funded from within existing resources. The expenditure of these funds is restricted until legislation authorizing new judgeships is enacted. In 2006 the Governor proposed adding 150 judges over a three-year period and the Legislature approved 50 new judgeships.

Funding Implements Recently Enacted Legislation. The Governor proposes \$17.4 million General Fund to implement the Conservatorship and Guardianship Reform Act of 2006. This Act increases court oversight over the conservatorship and guardianship system for elderly and dependent adults. These funds are proposed on a two-year limited-term basis so that the courts can better estimate the total costs to implement this new law.

The Governor also proposes \$1.4 million General Fund to implement AB 2480 (Evans) to require court-appointed counsel for children in appeals of dependency court orders.

New Access to Justice Pilot Program. The Governor proposes \$5 million General Fund to implement a pilot project in three Trial Courts to identify and provide representation to unrepresented litigants on civil matters who need more assistance than what is now available through the self-help programs. The program will help to develop models for providing representation to civil litigants who require representation.

Work to Start on New Court Facilities. The Governor proposes \$19.5 million in State Court Facilities Construction Fund to fund acquisition and working drawings for seven new courthouses in the following counties: Contra Costa, Joint Facility for Plumas and Sierra, Mono, Madera, San Bernardino, San Joaquin, and Riverside.

Issues

New Judgeships Need Legislative Approval. The Governor is proposing to add 100 new judgeships over a two-year period beginning in April 2008 and convert 161 subordinate judicial officers to judgeships. The Legislature may wish to evaluate the need for these new judgeships.

Most Trial Court Facilities Will Not Transfer to State by Deadline. The counties started transferring court facilities to the state in 2004-05. However, the transfer process has been slow and to date only 20 facilities have been transferred. One of the primary reasons for the delay was that a significant number of the court facilities were in need of seismic upgrades that prevented them from being transferred to the state. Legislation enacted in 2006, SB 10 (Dunn), addresses this issue by allowing buildings that need significant seismic upgrades to be transferred to the state so long as liability for all earthquake-related damage remains with the counties.

Current law requires that the counties transfer the court facilities by the end of the current year and the Administrative Office of the Courts expects that another 70 facilities will transfer by this statutory deadline. This leaves 360 court facilities that will not transfer by the statutory deadline. The Legislature may wish to evaluate how to deal with the facilities that have not been transferred by the statutory deadline.

Infrastructure Bond Issues. The Governor's Strategic Growth Plan includes \$2 billion in general obligation bonds to build new and renovate existing court facilities. This represents a portion of the \$5.2 billion identified in the 2006 Five-Year Infrastructure Plan for various

courthouse projects. Furthermore, the Judicial Council has identified nearly \$10 billion in needs to bring all courts up to secure and safe standards and to accommodate growth. A recent report on court facilities found that over half of county court buildings are not able to accommodate people with disabilities, lack up-to-date fire and life safety systems, and pose a substantial seismic risk. The Legislature may wish to evaluate the Governor's bond proposal to determine if it is adequate to meet the immediate needs of the courts.

Furthermore, legislation enacted in 2002 (SB 1732, Escutia) authorized specific penalties and surcharges to be allocated to the State Court Facilities Construction Fund to provide revenues dedicated to the construction and rehabilitation of state court facilities. The Legislature may also wish to consider the availability of these revenues in conjunction with the revenue bond to determine the amount of bond funding needed by the Judicial Branch.

Building Maintenance Payments From Counties Fall Short. As mentioned previously, the state is in the process of taking over responsibility for court facilities previously owned by the counties. As part of this transfer, the counties will pay the state for operations and maintenance of the court buildings through a County Facility Payment. The amount paid annually by the counties is being determined when each court facility is transferred to the state and is based on a five-year average of operations and maintenance costs developed five years ago.

The state is finding that in many cases these maintenance payments do not adequately cover the operations and maintenance costs of the buildings, especially given the age and condition of many of these buildings. Current law allows the County Facility Payments to be augmented by the General Fund at a rate equal to the growth in the State Appropriations Limit two years after the building has transferred from the county to the state. However, even this amount may not be adequate to address all of the operations and maintenance needs of these aging court buildings. The Legislature may wish to evaluate options for addressing ongoing shortfalls in operations and maintenance of state court facilities.

0280 Commission on Judicial Performance

Background. The Commission on Judicial Performance is an independent agency responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges pursuant to the California Constitution. The Commission is composed of 11 members; three judges appointed by the Supreme Court, two attorneys appointed by the Governor, and six lay citizens, of whom two are appointed by the Governor, two are appointed by the Senate Committee on Rules, and two are appointed by the Speaker of the Assembly.

Governor's Budget. The Governor's budget includes \$4.4 million from the General Fund to support the Commission in the budget year. This is approximately the same level of funding as estimated for expenditure in the current year. There are no budget change proposals for the Commission.

Summary of Expenditures (dollars in thousands)				
	2006-07	2007-08	\$ Change	% Change
Type of Expenditure				
Commission	\$4,378	\$4,400	\$22	0.5
Total	\$4,378	\$4,400	\$22	0.5
Funding Source				
General Fund	\$4,379	\$4,401	\$22	0.5
<i>Budget Total</i>	<i>4,379</i>	<i>4,401</i>	<i>22</i>	<i>0.5</i>
Judicial Branch Workers' Comp Fund	-1	-1	0	0.0
Total	\$4,378	\$4,400	\$22	0.5

0390 Contributions to the Judges' Retirement System

Background. The Judges' Retirement System funds retirement benefits for California's Supreme, Appellate, and Trial Court Judges. The Judges' Retirement System receives contributions equal to eight percent of salary from both active judges and the state. Additional contributions come from filing fees for specific civil cases and investment income. These contributions have not been sufficient to fully fund benefit payments and current law requires the state General Fund to make up the difference between existing contributions and the required benefit payments to retired judges.

A second retirement system for judges was established in 1994 for all new judges elected or appointed after November 1994. The second system receives contributions from judges equal to 8 percent of their salary as well as investment income. The state also makes General Fund contributions to this fund annually to ensure required benefit payments to retired judges.

Governor's Budget. The Governor's budget proposal includes \$334 million (\$175 million General Fund) to support the two judges' retirement systems in the budget year. This is nearly 10 percent more than estimated for expenditure in the current year due to a \$19 million increase in General Fund to meet the required benefit payments to retired judges.

Summary of Expenditures				
(dollars in thousands)	2006-07	2007-08	\$ Change	% Change
Type of Expenditure				
State Operations	\$3,050	\$3,050	\$0	0.0
Local Assistance	152,656	171,716	-	-
Unclassified	149,066	159,321	10,255	6.9
Total	\$304,772	\$334,087	\$29,315	9.6
Funding Source				
General Fund	\$155,706	\$174,766	\$19,060	12.2
<i>Budget Total</i>	<i>155,706</i>	<i>174,766</i>	<i>19,060</i>	<i>12.2</i>
Judges' Retirement Fund	147,628	157,445	9,817	6.6
Judges' Retirement System II Fund	1,438	1,876	438	30.5
Total	\$304,772	\$334,087	\$29,315	9.6

Issues

Recruitment and Retention of Judges. Retirement benefits are an important factor in recruiting and retaining judges. Recent reviews of the current retirement benefits for judges find that they may not be adequate for retaining experienced judges. The Legislature may wish to modify the current retirement system so that experienced judges have improved incentives for remaining on the bench in California.